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4 **UNITED STATES DISTRICT COURT**

5 **DISTRICT OF NEVADA**

6 JAMIE FREY,)
7)
8 Plaintiff,)
9)
10 vs.) 2:11-cv-01673-RCJ-RJJ
11)
12 MORTGAGE ELECTRONIC REGISTRATION) **ORDER**
13 SYSTEMS, INC. et al.,)
14)
15 Defendants.)
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Plaintiff Jamie Frey gave lender American Brokers Conduit a promissory note for \$260,000 to purchase real property at 3132 Clamdigger Ln., Las Vegas, NV 89117 (the “Property”). (*See* Deed of Trust (“DOT”) 1–2, Sept. 13, 2005, ECF No. 1-1, at 14). First American Title Co. of Nevada (“First American”) was the trustee, and Mortgage Electronic Registration Systems, Inc. (“MERS”) was the lender’s “nominee.” (*See id.* 2). MERS substituted Cal-Western Reconveyance Co. (“Cal-Western”) as trustee. (*See* Substitution, Sept. 28, 2010, ECF No. 1-1, at 41). First American then filed the notice of default (“NOD”) as Cal-Western’s agent based on a default of unspecified amount as of May 1, 2010. (*See* NOD 1–2, Sept. 29, 2010, ECF No. 1-1, at 38). MERS then transferred the beneficial interest in the note and DOT to Aurora Loan Services LLC (“Aurora”). (*See* Assignment, Oct. 4, 2010, ECF No. 1-1, at 43). In January 2011, Cal-Western noticed a trustee’s sale for September 21, 2011. (*See* Notice of Trustee’s Sale 1–2, Jan. 7, 2011, ECF No. 1-1, at 46).

Plaintiff filed the Complaint in state court on September 16, 2011 to stop the foreclosure,

suing MERS, Aurora, and Cal-Western on five causes of action: (1) fraud; (2) wrongful foreclosure; (3) unjust enrichment; (4) violations of Nevada Revised Statutes section 107.080; and (5) slander of title. Defendants removed. The state court had scheduled a preliminary injunction hearing, but it is not clear if the state court had issued any temporary restraining order (“TRO”), because Defendants attach only Plaintiff’s proposed TRO to the notice of removal. It appears that motion is still pending, but Plaintiff has also filed a new motion. Because the foreclosure appears to have been statutorily proper and Plaintiff does not appear to deny default, Plaintiff has failed to show a likelihood of success on the merits, and the Court denies the motion for a TRO.

CONCLUSION

IT IS HEREBY ORDERED that the Motion for Temporary Restraining Order (ECF No. 4) is DENIED.

IT IS SO ORDERED.

Dated this 19th day of October, 2011.

ROBERT C. JONES
United States District Judge